

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 25 APR 2006

WIPO

PCT

Applicant's or agent's file reference <b>LWR:RC:FP21117</b>	<b>FOR FURTHER ACTION</b>	See Form PCT/IPEA/416
International application No. <b>PCT/AU2005/000247</b>	International filing date ( <i>day/month/year</i> ) <b>24 February 2005</b>	Priority date ( <i>day/month/year</i> ) <b>3 March 2004</b>
International Patent Classification (IPC) or national classification and IPC  Int. Cl.  <div style="display: flex; justify-content: space-around;"> <span><b>A61H 9/00</b> (2006.01)</span> <span><b>A61H 23/04</b> (2006.01)</span> </div>		
Applicant  <b>NUTRIPHARMA LTD et al</b>		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of 3 sheets, including this cover sheet.
3.	This report is also accompanied by ANNEXES, comprising: <div style="margin-left: 20px;">                     a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of 6 sheets, as follows:                     <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).                             <div style="margin-left: 20px;"> <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.                                 </div> </div> </div>
b.	<input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4.	This report contains indications relating to the following items: <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Box No. I      Basis of the report  <input type="checkbox"/> Box No. II      Priority  <input type="checkbox"/> Box No. III      Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  <input type="checkbox"/> Box No. IV      Lack of unity of invention  <input checked="" type="checkbox"/> Box No. V      Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement  <input type="checkbox"/> Box No. VI      Certain documents cited  <input type="checkbox"/> Box No. VII      Certain defects in the international application  <input type="checkbox"/> Box No. VIII      Certain observations on the international application                 </div>

Date of submission of the demand <b>19 September 2005</b>	Date of completion of this report <b>12 April 2006</b>
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: <a href="mailto:pct@ipaaustralia.gov.au">pct@ipaaustralia.gov.au</a> Facsimile No. (02) 6285 3929	Authorized Officer  <b>AMOD PRADHAN</b> Telephone No. (02) 6283 2510

**Box No. I Basis of the report**

1. With regard to the **language**, this report is based on:
- ☒ The international application in the language in which it was filed
- ☐ A translation of the international application into \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3(a) and 23.1 (b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (Rules 55.2(a) and/or 55.3(a))
2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages **1, 5 – 15** as originally filed/furnished
- pages\* **2, 3, 4 & 4a** received by this Authority on **19 September 2005** with the letter of **19 September 2005**
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_ with the letter of \_\_\_\_\_
- ☒ the claims:
- pages \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- pages\* **16 & 17** received by this Authority on **6 April 2006** with the letter of **6 April 2006**
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_ with the letter of \_\_\_\_\_
- ☒ the drawings:
- pages **1/2 – 2/2** as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_ with the letter of \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_ with the letter of \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 1 – 12	YES
	Claims	NO
Inventive step (IS)	Claims 1 – 12	YES
	Claims	NO
Industrial applicability (IA)	Claims 1 – 12	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)

**Novelty (N); Inventive Step (IS); Industrial Applicability (IA)**

**Claims 1 – 12**

Applicant's submissions including the amendments have been carefully considered.

The only independent claim now includes the feature of 'the body temperature of the patient being elevated subsequent to the removal of the patient from the fluid'. The features (including this one) defined by the one independent claim are not disclosed in the prior art document cited in earlier reports – DE 19527770. The combination of the features defined in the one independent claim is also not rendered obvious in light of this document.

Consequently, the invention defined in the one independent claim is novel and possesses an inventive step over this cited prior art document. The remaining claims depend from this independent claim and are therefore novel and possess an inventive step as well.

The invention defined in the present claims is suitable for industrial application.